

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-209435.3

DATE: December 7, 1982

MATTER OF: Bay Shipbuilding Corporation--
Reconsideration

DIGEST:

A prospective subcontractor to an unsuccessful offeror is not an "interested party" under GAO's Bid Protest Procedures to protest that the offer selected for award does not meet all RFP requirements.

Bay Shipbuilding Corporation requests that we reconsider our October 21, 1982 dismissal of the firm's protest against the Military Sealift Command's award of a contract to Ocean Carriers, Inc. under request for proposals (RFP) N00033-82-R-7002. Energy Transportation Corporation; Bay Shipbuilding Corporation, B-209435.2, October 21, 1982, 82-2 CPD 361. Our decision is affirmed.

We dismissed both Bay Shipbuilding's protest and Energy Transportation Corporation's protest because they focused on Ocean Carriers' responsibility, and we do not review a contracting officer's affirmative determination of responsibility except in limited circumstances which did not apply. In the reconsideration request, Bay Shipbuilding asserts that it also was protesting that Ocean Carriers' best and final offer did not conform to all solicitation requirements. Bay Shipbuilding argues that this basis for protest should have been apparent from the statement in its protest letter that "the selection of Ocean Carriers * * * is not in the best interest of the Government," and from a copy of an October 12 letter to the Military Sealift Command that the firm furnished to our Office with its protest, in which Bay Shipbuilding protested to the agency both that Ocean Carriers was nonresponsible and that the firm's offer did not comply with the RFP.

B-209435.3

Even if we accept Bay Shipbuilding's characterization of its protest--that Ocean Carriers' offer did not meet all RFP requirements--Bay Shipbuilding was only a prospective subcontractor to Energy Transportation Corporation, an offeror in the procurement. Our Bid Protest Procedures provide that for a protest to be considered by our Office, the protester must be an "interested party," 4 C.F.R. § 21.1(a) (1982), that is, the firm must have a direct relationship to the issue raised. American Satellite Corporation (Reconsideration), B-189551, April 17, 1978, 78-1 CPD 289. Under that provision, the unsuccessful competitors for the contract (e.g., Energy Transportation Corporation), not their prospective subcontractors, are the parties with the direct interest in whether the prospective awardee's offer conforms to the RFP. Peter L. Merkel/Data General, Inc., B-204012, September 10, 1981, 81-2 CPD 210. Indeed, we considered Bay Shipbuilding's arguments in our prior decision only because we viewed them as involving Ocean Carriers' responsibility, which Energy Transportation Corporation also raised (as its sole basis for protest). Energy Transportation Corporation has not requested that we reconsider the matter, however, so that there simply is no complaint pending from any firm that could receive the award if Ocean Carriers did not.

Thus, Bay Shipbuilding is not itself an "interested party" under our Bid Protest Procedures to pursue a protest that the Navy accepted a nonconforming offer. We therefore affirm our October 21 dismissal.

for Milton J. Fowler
Comptroller General
of the United States